

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, : CRIMINAL ACTION NO. 12-204 (MLC)

: OPINION

Plaintiff, :

v. :

C. TATE GEORGE, :

Defendant. :

**DEFENDANT** was previously tried and found guilty by a jury and sentenced to a period of imprisonment by this Court. (Dkt. 206.)

**DEFENDANT**, on January 21, 2016, filed a Notice of Appeal to the Court of Appeals for the Third Circuit challenging his conviction. (Dkt. 207; dkt. 209.) The matter remains pending. See Appeals Docket No. 16-1170.

**DEFENDANT** has filed in this Court a motion to dismiss the indictment and vacate the conviction. (Dkt. 245; dkt. 246.)

**THIS COURT** lacks jurisdiction to act on Defendant's motion because he has filed a notice of appeal to the Third Circuit. See Bensalem Twp. v. Int'l Surplus Lines Ins. Co., 38 F.3d 1303, 1314 (3d Cir. 1994) ("[O]nce a notice of appeal is filed, jurisdiction is no longer vested in the district court."). Although exceptions exist when a district court may act after the notice of appeal is filed, none are applicable here. See In re Merck & Co. Sec. Litig., 432 F.3d 261, 268 (3d Cir. 2005) (noting that a district court may "review attorney's fees applications, order the filing of bonds, modify or grant

injunctions, issue orders regarding the record on appeal, and vacate bail bonds and order arrests”).

**THIS COURT** will deny Defendant’s motion for lack of jurisdiction.

For good cause appearing, the Court will enter an appropriate Order and Judgment.

s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge

Dated: December 8, 2016